IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-10-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.18620 of 2007
and
MP No.1 of 2007

A.Chinnasamy .. Petitioner

vs

The Joint Director of Medical
and Rural Health Services
and Family Welfare
Salem 636 001. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to (1) show cause notice in Na.Ka.No.504/Ni.2/2007 dated 23.4.2007; (2) charge memo No.504/Ni.2/2007 dated 25.4.2007; (3) charge memo No.504/Ni.2/2007 dated 27.4.2007 (order of suspension) and (4) charge memo No.504/Ni.2/2007 dated 27.4.2007 (order not permitting to retire) of the respondent herein, quash the same and issue consequential directions to the respondent to permit the petitioner to retire from service on 30.4.2007 A.N. with all consequential retirement and pensionary benefits with interest on belated payment.

For Petitioner : Mr.M.Ravi

For Respondent : Mrs.Shanmugavalli Sekar
Government Advocate

ORDER

Seeking a writ of certiorarified mandamus to quash the show cause notice in Na.Ka.No.504/Ni.2/2007 dated 23.4.2007, the charge memo No.504/Ni.2/2007 dated 25.4.2007, the charge memo No.504/Ni.2/2007 dated 27.4.2007 and the charge memo No.504/Ni.2/2007 dated 27.4.2007, of the respondent herein and consequential directions to the respondent to permit the petitioner to retire from service on 30.4.2007 A.N. with all consequential, retirement and pensionary benefits with interest on belated payment, the petitioner has brought forth this writ petition.

2.The affidavit in support of the petition is perused. The Court heard the learned Counsel on either side.

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3.The following facts would emerge as admitted facts:

The petitioner herein was working as Ambulance Van Driver, attached to the respondent department. While so, disciplinary proceedings were initiated against him under Rule 17(b) of the Tamil Nadu Civil Services (D & A) Rules, in Na.Ka.No.504/E2/2007 dated 25.4.2007 alleging that there was dereliction of duty in discharge of the official duty on 6.3.2005 while he was driving the Ambulance Van bearing Registration No.TN-27-G-0802, attached to the Government Hospital, Edapadi, and for alleged involvement of the said vehicle in the accident causing serious injuries to two persons who filed the claim petition before the Principal Subordinate Judge, Salem (Motor Accident Claims Tribunal) for compensation. Following the initiation of the proceedings, he gave his detailed explanation on 20.4.2004. Not satisfied with the same, the petitioner has been placed under suspension on 27.4.2007 for the enquiry on the charges levelled against him. He was to retire on 30.4.2007 on attaining superannuation; but, he was not permitted to retire on that day. Actually, the enquiry is pending. Under the circumstances, the writ petition has been brought forth seeking to quash the charge memo and also the other connected proceedings.

4.Advancing the arguments on behalf of the petitioner, the learned Counsel would submit that the accident has taken place on 6.3.2005, when two persons came in a two wheeler in a drunken mood and dashed against the Ambulance Van, and thus, the petitioner was not in any way responsible for the accident that took place on that day; that there was a complaint given to Magudanchavadi Police Station, and a case came to be registered in Crime No.128/2005 under Sections 279 and 337 of I.P.C.; but, later, it was closed; that further, there was a claim made by them before the Motor Accident Claims Tribunal, Salem, in MCOP No.663/2005, wherein the petitioner was not added as party; that even the charge memo issued to him on 25.4.2007, and the following proceedings have got to be quashed since it had no basis at all; that the adding circumstance is that the matter is also pending for more than two years, and hence, it has got to be quashed.

5.The Court heard the learned Government Advocate for the respondent on the above contentions.

6.After looking into the materials available and hearing the learned Counsel, this Court is of the considered opinion that it is a fit case where a direction could be issued to the respondent to complete the enquiry within a time frame. It is not in controversy that there was an accident that took place on 6.3.2005, where two persons were seriously injured, and they had also made a claim in MCOP No.663/2005. It is also not in controversy that a case was registered in Crime No.128/2005 under Sections 279 and 337 of I.P.C. Now, the contention put forth by the learned Counsel for the petitioner is that it was closed. But, under what circumstance it was closed remained unknown. Further, MCOP No.663/2005 is also pending. Merely because the petitioner was not added as party, the same cannot be a reason to quash the charge memo. From the materials available, it would be quite clear that the employer of the petitioner was also a party therein. Once a charge memo has been issued and it would, according to the department, attract Rule 17(b) of the Tamil Nadu Civil Services (D & A) Rules, and the enquiry is also initiated only in April

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2007, this Court is of the considered opinion that merely because of the reason that he was to retire on 30.4.2007, the proceedings need not be, at this stage, quashed. But, at the same time, it would be fit and proper to issue a direction to the respondent department to complete the enquiry and pass orders within a period of three months herefrom. Accordingly, a direction is issued, and this writ petition is disposed of. No costs. Consequently, the connected MP is closed.

nsv/

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

The Joint Director of Medical
and Rural Health Services
and Family Welfare
Salem 636 001.

+1 cc to The Government Pleader Sr.No.63688.

+1 cc to Mr.M.Ravi, Advocate Sr.No.63715.

SJ(CO)
dcp/25.10

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